IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.Rev.Pet.No. 3778 of 2006()

CRA.28/2005 of ADDL. DISTRICT & SESSIONS COURT(ADHOC) FAST TRACL III, PATHANAMTHITTA
CC.636/2003 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, PATHANAMTHITTA

REVN. PETITIONER: APPELLANT/ACCUSED:

K.P. PUNNOOSE,
KADAPPINALIL VEEDU, NIRANAM VILLAGE,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.P.HARIDAS

RESPONDENTS: RESPONDENT/COMPLAINANT:
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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. K.JOY,
MUKALUTHUNDIL GRACE BHAVAN,
KADAMPANADU SOUTH P.O.
PATHANAMTHITTA.

PUBLIC PROSECUTOR SRI.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

CRL.R.P.NO. 3778 OF 2006

Dated this the 22nd day of November,2006

O R D E R

The petitioner was found guilty for the offence under Section 138 of the Negotiable Instruments Act and he was sentenced to undergo simple imprisonment for a period of six months and was ordered to pay a sum of Rs.70,000/- as compensation under Section 357(3) of the Code of Criminal Procedure and in default of payment of compensation, to undergo simple imprisonment for three months. The petitioner challenged the conviction and sentence in appeal. The Appellate Court partly allowed the appeal and while confirming the conviction, sentenced the petitioner to undergo simple imprisonment till the rising of the Court. The direction to pay compensation was also confirmed.

2. The petitioner has now paid the

compensation amount. Now what remains is undergoing the period of imprisonment till the rising of the Court. Learned counsel for the petitioner submitted that the petitioner had really acted as a mediator and he had never borrowed any amount from the complainant. The petitioner is aged 58 years. In these circumstances, it is submitted that discretion may be exercised to convert the period of imprisonment into fine. Taking into account the facts and circumstances of the case, I am inclined to accept this submission. Since the conviction is not being interfered with, I do not think, notice need be issued to the respondent.

The Criminal Revision Petition is disposed of in the following manner:

The conviction is confirmed. The sentence of imprisonment till the rising of the Court is set aside. The direction to pay compensation under

Section 357(3) of the Code of Criminal Procedure is also set aside. The petitioner is sentenced to pay a fine of Rs.75,000/-, out of which Rs.70,000/- shall be paid as compensation to the complainant under Section 357(1) of the Code of Criminal Procedure. Since the amount has already been deposited, the petitioner need deposit the balance amount of Rs.5,000/- towards fine. He shall deposit the amount of Rs.5,000/- within a period of two weeks.

(K.T.SANKARAN)
Judge

ahz/

K.T.SANKARAN, J.

CRL.M.C.NO. OF

O R D E R

September, 2006